



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 11, 2009

U.S. District Judge Lee Yeakel
Western District of Texas
U.S. Courthouse
200 W. 8th Street
Austin, TX 78701

Via Hand Delivery

RE: Civil Action No. A-09-CR-072-LY; *In re: Grand Jury Proceedings; Grand Jury No. 08-4; John Doe, C.P.A.*; In the United States District Court; Western District of Texas; Austin Division

Dear Judge Yeakel:

This letter brief is a reply to the U.S. Attorney's brief in support of amended response to Witness Doe's motion to quash. The Texas State Board of Public Accountancy agrees that the Supremacy Clause gives grand jury investigative powers precedence over state confidentiality statutes. *In re Grand Jury Subpoena*, 198 F.Supp.2d 1113 (D.Alaska); *In re Grand Jury Subpoena for New York State Income Tax*, 468 F. Supp. 575, 577 (N.D.N.Y.), appeal dismissed, 607 F.2d 566 (2d Cir. 1979); *In re Grand Jury Matter*, 762 F.Supp. 333, 335 (S.D.Fla. 1991); *In re Grand Jury Subpoena*, 688 F.Supp. 319, 320 (W.D.Tenn. 1988); *St. Luke's Regional Medical Center, Inc. v. United States*, 717 F.Supp. 665, 666 (N.D. Iowa 1989); *In re Grand Jury Proceedings*, 445 F. Supp. 455, 457 (M.D. Ga. 1977).

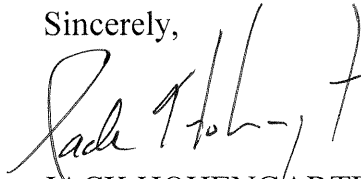
Therefore, section 901.457 of the Texas Occupations Code is preempted to the extent that it requires a court order enforcing a federal grand jury subpoena before an accountant can be required to provide client information. See *In re Grand Jury Subpoena*, 198 F.Supp. 2d at 1117.

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At the same time, the Board wishes to emphasize the narrow issue before this court: whether the state confidentiality statute is preempted to the extent it requires a court order enforcing a *federal grand jury subpoena*. It does not encompass state subpoenas or other types of federal subpoenas.

If this office can be of additional assistance, please let us know.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Hohengarten", with a stylized flourish at the end.

JACK HOHENGARTEN
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JH/jrb

cc: Ashley C. Hoff
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